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1942.

File No. Cr. Tribes II/42

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Legal **DEPARTMENT**

B **BRANCH**

Subject:—

Rules and Notifications
under the
Bombay Criminal Tribes
Rules, 1930

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HMP.
3/3/86.

Office of the R.L.A.

A revised draft rule is appended. It would be more appropriate to insert the rule after rule 55 as a new rule 55A, rather than add a sub-rule to rule 55.

2. In the absence of an express provision in the Criminal Tribes Act, 1924, authorising the Provincial Government to make a rule providing for confiscation of property, it is not competent to provide that articles attached shall be forfeited to Govt. The revised draft rule, therefore, provides for the sale proceeds to be given to the owner of the article when the articles attached are sold. The provision regarding destruction can appropriately be made only in case of intoxicants and gaming instruments. The revised draft rule provides accordingly.

Sd. P.N.Moos,
31/7.
Remembrancer of Legal Affairs.

U.R.to H.D.,No.6260, dated the 1st August 1942.

MRP.
3/8/56.

Revised draft rule.

55A. Power to attach intoxicants and gaming instruments.- The Manager of the settlement or any member of the staff (other than a menial) empowered in writing in this behalf by the Settlement Officer may attach any intoxicant found with any settler without a permit under clause (d) of sub-rule (1) of rule 54 or any betting money or instrument of gaming used for the purpose of gambling. After attachment, an inquiry shall be held by the Manager as to the possession of the articles attached. Where the articles attached consist of an intoxicant or do not exceed in value Rs.10, the Manager shall, after the inquiry, either return the articles to the person appearing to be entitled thereto or order them to be sold and the sale proceeds given to such person or in case of intoxicants and instruments of gaming order them to be destroyed. In other cases the Manager shall, after the inquiry, forward the articles to the Settlement Officer, who shall dispose of them in a similar manner.

MNP.
3/5/56.

R.I.No.10080,dated 23-09-42.

Office of the R.L.A.

It appears that by Government Notifications, Home Department No.7947/2/1, dated 19-7-1934,No.8421/2(1), dated 20-9-34 and No.973/4(1 , dated 21-7-1933 issued under section 3 of the Criminal Tribes Act, 1924, the Bhils, Berads and Kolis who were in jail, or were convicted of a non-bailable offence or were required to furnish security under section 118 of the Criminal Procedure Code on or after the 1st January 1920 and their wives and children under 14 years of age were declared to be a criminal tribe for the purposes of the Act. It is now proposed to substitute 1st January 1930 ~~for~~ for 1st January 1920 as the relevant date. The question raised for the consideration of the R.L.A. is whether, if these notifications are amended accordingly with the consequential alterations in the registers, a conviction or convictions between 1st January 1920 and 1st January 1930 for breach of rules made under section 20 will count for enhancement of punishment under section 22 of the Criminal Tribes Act.

2. The effect of altering the relevant date by amending the notifications would be that those Bhils, Berads and Kolis who were in jail or were convicted of a non-bailable offence or were required to furnish security under section 118, Criminal Procedure Code on or after 1st January 1920 would be considered to be a criminal tribe for the purposes of the Act and the register amended in pursuance thereof would be deemed to be effective as if a new register were made after 1st January 1930. Consequently the entries in the register regarding convictions between 1-1-1920 and 1-2-1930 for breach of rules made under section 20 will have to be erased since the registered members would not longer be considered to be members of a criminal tribe during that /orod- Obviously therefore such convictions cannot count for enhanced punishment under section 22.

3. A revised draft notification, in place of H.D. draft

notifications at pages 99-106 and 81-87 supra, is sent herewith.

4. The H.D. draft notifications relating to the Lamanis, Wagharis, Waddars and Dharalas are proposed to be issued in supersession of the existing notifications relating to the said tribes. Although there is no legal objection to doing so, if such a course is adopted, the registeres already made in respect ~~x~~ to these tribes will cease to have effect and the procedure laid down under sections 4 and 5 of the Act may have to be gone through afresh. It is clear from the H.D. noting that it is not sought to throw any extra work on the district police. It would therefore be more appropriate to amend the existing notifications to achieve the end in view. Schedule A to the revised draft notification seeks to carry out this object.

5.(a) The H.D. draft notification No.1 relating to Mimas and Oudhias at p.99 ante corresponds to Schedule B to the revised draft notification. The H.D. draft notification No.1m which purports to cancel G.N.,H.D.,No.7947/2/1 dated the 19th July 1934 so far as it relates to Bhils in the Sholapur and Poona districts corresponds to draft amendment (1) against entry 1 in Schedule A to the revised draft notification.

(b) The H.D. draft notification Nos.II, V and VI relating to Berads, Bhils and Kolis, respectively at pp.99 and 104 supra correspondx to entries 1,2,and 3 in Schedule A to the revised draft notification.

(c) Paragraph 1,2 and 3 of the H.D. draft notification No.III relating to Lamanis at pp.99-101 supra correspond to entries 4, 5 and 6 respectively in Schedule A to the revised draft notification.

(d) Paragraphs 1,2,3 and 4 of the H.D.draft notification No.IV relating to Waghris in the City of Bombay, Bombay Suburban and Kaira districts at pp.101-104 supra correspond to entries 7 to 17 (both inclusive) in Schedule A to the revised draft. G.N.,H.D. No.9356-III/53 dated the 28th

the 23th November 1931 under section 11 of the Act relating to Waghris in the Kaira district does not require any modification. Hence there is no entry for amending the said notification in the revised draft notification.

(e) Paragraphs 1,2,and 3 of the H.D. draft notification No.VII relating to Vadhars at pages 104 to 106 supra correspond to entries 18,19 and 20 respectively in Schedule A to the revised draft notification.

(f) Paragraphs 1 to 3 of the H.D. draft notification relating to Dharalas at pp.81-85 ante correspond to entries 21 to 23 respectively. G.N., H.D.No.9336-III/57 dated the 28th November 1931 under section 11 of the Act does not require any modification. There is, therefore, no entry for amending the said notification in the revised draft notification.

6. The existing notifications under section 4 of the Act relating to Lamanis and Waghris do not provide for all the District Magistrates in the districts and the Commissioner of Police, Bombay, in the City of Bombay to maintain registers of ~~Mm~~ Lamanis and Waghris. The H.D. draft notifications under section 4 relating to these tribes, however, purport to direct all the District Magistrates in the districts and the Commissioner of Police, Bombay, in the City of Bombay to make or cause to be made registers of the Lamnis and Waghris who have been declared as members of the criminal tribe. If as proposed in the H.D. drafts, the existing notifications are amended, directing all the District Magistrates in the districts and the Commissioner of Police, Bombay, in the City of Bombay, to make registers, it will entail extra work of preparing the registers on the District Magistrates other than those specified in the existing notifications under section 4 relating to Lamanis and Waghris. It is presumed this is not intended. The existing notifications have therefore not been amended in this respect.

7. G.N.,H.D.,No.1794/II dated the 21st November 1927

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under section 4 of the Act relating to Wadhris in the City of Bombay directs the Commissioner of Police, Bombay, to make etc. registers of such members as fulfil the conditions mentioned in paragraphs 3 of the letter from the Commissioner of Police, Bombay, No.4000/C/50 dated 22nd August 1925. The H.D. is requested to verify whether the portion underlined above would now be necessary and consistent in view of the amendments made by the proposed notification in G.N.,H.D. No.1794 dated the 20th September 1934 under section 3 of the Act.

Before the revised draft notification is issued, the H.D. is requested to verify that it duly carries out its intention.

Sd. P.N.Moos,
18/2
Remembrancer of Legal Affairs.

U.R.to H.D..No.10110, dated the 18th December 1942.

MRP.
3/5/56.